

any director of the corporation or association to be served, or to the attorney of record representing such person; or

(ii) By leaving a copy of the document or paper at the principal office or place of business or residence of such individual, partnership, corporation, organization, or association, or of the attorney of record representing such person and mailing by regular mail another copy to such person at such address; or

(iii) By registering or certifying and mailing a copy of the document or paper, addressed to such individual, partnership, corporation, organization, or association, or to the attorney of record representing such person, at the last known residence or principal office or place of business of such person: *Provided*, That if the registered or certified document or paper is returned undelivered because the addressee refused or failed to accept delivery, the document or paper shall be served by remailing it by regular mail. Proof of service under this paragraph shall be made by the certificate of the person who actually made the service: *Provided*, That if the service be made by mail, under paragraph (m)(2)(iii) of this section, proof of service shall be made by the return post-office receipt, in the case of registered or certified mail, or by the certificate of the person who mailed the matter by regular mail. Any certificate or post-office receipt returned to the Presiding Officer or Administrator shall be filed by the Presiding Officer or Administrator, and made a part of the record of the proceeding.

(3) *Extensions of time*. The time for the filing of any document or paper required or authorized under this section to be filed may be extended by the Presiding Officer or the Administrator as provided in paragraph (j) of this section, if in the judgment of the Presiding Officer or the Administrator, as the case may be, there is good reason for the extension. In all instances in which time permits, notice of the request for extension of the time shall be given to the other party with opportunity to submit views concerning the request.

(4) *Effective date of filing*. Any document or paper required or authorized under this section to be filed shall be deemed to be filed at the time when it

reaches the person with whom the document or paper must be filed.

(5) *Computation of time*. Saturdays, Sundays, and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided*, That, when such time expires on a Saturday, Sunday, or holiday, such period shall be extended to include the next following business day.

(n) *Ex parte communications*. (1) At no stage of the proceeding between its institution and the issuance of the final decision shall the Presiding Officer or Administrator discuss *ex parte* the merits of the proceeding with any person who is connected with the proceeding in an advocative or in an investigative capacity, or with any representative of such person: *Provided*, That the Presiding Officer or Administrator may discuss the merits of the case with such a person if all parties to the proceeding, or their attorneys have been given notice and an opportunity to participate. A memorandum of such discussion shall be included in the record.

(2) No interested person shall make or knowingly cause to be made to the Presiding Officer or Administrator an *ex parte* communication relevant to the merits of the proceeding.

(3) If the Presiding Officer of the Administrator receives an *ex parte* communication in violation of this paragraph (n), the individual who receives the communication shall place in the public record of the proceeding:

(i) Any such written communication;
(ii) Memoranda stating the substance of such oral communication; and
(iii) Any written response, and memoranda stating the substance of any oral response to the *ex parte* communication.

(4) For purposes of this section *ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or the proceeding.

§ 110.9 Miscellaneous.

In accordance with Section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the recordkeeping provisions in this rule have been approved

Agricultural Marketing Service, USDA

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by the Office of Management and Budget (OMB) and there are no new requirements. The assigned OMB control number is 0581-AA39.

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